

REMARKS

The following Restriction Requirement has been issued under 35 USC 121:

- I. Claims 275 and 296-297, drawn to a multimeric composition comprising a hormone that is insulin, classified in class 424, subclass 1.45.
- II. Claims 275 and 298-299, drawn to a multimeric composition comprising a growth factor that is erythropoietin, classified in class 424, subclass 1.41.
- III. Claims 275 and 300-301, drawn to a multimeric composition comprising a cytokine that is lymphokine, classified in class 424, subclass 1.41.

The Restriction Requirement states that the inventions are distinct, each from the other because:

Inventions of groups I-III are directed to related products. The related inventions are distinct if the (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP §806.05(j). In the instant case, the inventions as claimed have a materially different design as each composition of each group comprises a different ligand. Further, since the compositions of groups I-III comprise different ligands, they have different functions/effects as they bind to different receptors. Furthermore, the inventions as claimed are mutually exclusive and there is nothing of record to show them to be obvious variants. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP §808.02), restriction for examination purposes as indicated is proper.

In order to be responsive, Applicants elect the claims in Group I, drawn to a multimeric composition comprising a hormone that is insulin, classified in class 424, subclass 1.45 with traverse. However, in Applicants' view, the inventions of Groups I-III are not distinct because there is a common functionality. First, all of the recited ligands are ligands to cells (specifically cell surface receptor). Furthermore, the present invention is directed to a multimerization of the ligands to increase their effective Km.

Even though the effects of the ligands may be different, the effects of the invention on the ligand are similar. Furthermore, even assuming *arguendo* that the inventions are independent and distinct, Applicants assert that it would certainly not be an undue burden to search just three groups.

In view of the above arguments, Applicants respectfully request that the Restriction Requirement be withdrawn. Even if the Restriction Requirement is not withdrawn, Applicants do note that it is indicated in the Restriction Requirement that claim 275 is a linking claim. Thus, upon the allowance of the linking claim(s) and as stated in the Restriction Requirement, this Requirement as to the linked inventions should be withdrawn and any claims depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application.

If a telephone conversation would further the prosecution of the present application, Applicants' undersigned attorney requests that he be contacted at (914) 712-0093.

Respectfully submitted,

/Cheryl H Agris/

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